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C O N F I D E N T I A L SECTION 01 OF 03 KATHMANDU 000141

SIPDIS

STATE FOR SA/INS, DRL, AND INR

E.O. 12958: DECL: 01/21/2014

TAGS: PHUM MOPS MCAP PGOV PTER NP

SUBJECT: NEPAL: ARMY ACTIONS TAKEN TO INVESTIGATE ALLEGED
HUMAN RIGHTS VIOLATIONS

REF: A. 02 KATHMANDU 0634

B. 03 KATHMANDU 0087

C. 03 KATHMANDU 1805

D. 03 KATHMANDU 2129

E. KATHMANDU 0063

Classified By: DCM ROBERT K. BOGGS. REASON: 1.5 (B,D).

SUMMARY

1. (SBU) Summary: Since its inception in July 2002, the Human Rights cell of the Royal Nepal Army (RNA) has accepted 17 cases of alleged human rights violations for further investigation. Of the 17 cases, 8 involved allegations of extra-judicial killing; 3 involved allegations of use of excessive force; 1 involved an allegation of rape; and 5 involved allegations of extortion and/or robbery. Of the 17 cases, disciplinary action and/or court martial was recommended in 12; no disciplinary action was recommended but compensation to victims' families recommended in 3; no evidence of wrongdoing was found in 1; and 1 remains under investigation. Although the RNA has displayed some progress in its willingness to investigate allegations, until it reopens an inquiry into allegations of extrajudicial killings in Ramechhap District (Ref C), it will remain vulnerable to public perception and criticism that it is attempting to evade a full accounting of this high-profile incident. End summary.

HUMAN RIGHTS CELL: RECORD SINCE 2002

2. (SBU) Since its inception in July 2002, the Human Rights cell of the Royal Nepal Army (RNA) has accepted 17 cases of alleged human rights violations for further investigations. Of the 17 cases, 8 involved allegations of extra-judicial killing; 3 involved allegations of use of excessive force; 1 involved an allegation of rape; and 5 involved allegations of extortion and/or robbery. Of the 17 cases, disciplinary action and/or court martial was recommended in 12; no disciplinary action was recommended but compensation to victims' families recommended in 3; no evidence of wrongdoing was found in 1; and 1 remains under investigation. In addition to the cell at RNA Headquarters, a human rights cell has been set up at each of the RNA's three Division Headquarters, as well as at each of its brigades. The human rights cell itself does not conduct investigations into specific cases, but may recommend that the Judge Advocate General constitute a Board of Inquiry to look into allegations. The cell is also charged with training and disseminating information about human rights to RNA soldiers and officers. Paras 3-12 provide further details on specific cases involving allegations of extrajudicial killings, rape, or use of excessive force.

EXCESSIVE FORCE ALLEGATIONS

3. (C) On May 7, 2002, RNA soldiers allegedly detained a Nepali employee of GTZ, the German aid agency, in Chitwan District and "manhandled" him while in custody. The cell found evidence of wrongdoing on the part of the officer involved, a captain. He was held back from promotion for a year and made ineligible for staff college training for one year. On May 12, 2002, RNA soldiers allegedly detained Nepali employees of GTZ in Sanfe Bagar, Achham District, and then beat him with rifle butts. The human rights cell found no evidence of human rights violations, and no further action was taken against the soldiers implicated. On March 13, 2003, a soldier of the 3rd Brigade named Surya Bahadur Khatri, while stationed at a checkpoint in Baglung District, accidentally discharged his weapon, injuring a girl in the eye. The soldier attempted to cover up the incident and flee the scene. The investigation found evidence of wrongdoing. Khatri was imprisoned for nine months and dismissed from the RNA.

RAPE ALLEGATIONS

14. (C) In April 2002 Capt. Ramesh Suwar and another unidentified officer of the independent Vim Kali Gulma Company of the 4th Brigade were accused of detaining and raping two teenaged girls at Chisapani Barracks in Bardiya District (Ref B). The other officer implicated was never identified, but human rights groups alleged that Major Ajit Thapa of the same company assisted in covering up the incident. After these charges were publicized in an Amnesty International report published in December 2002, an investigation was initiated by the human rights cell. Shortly thereafter, the girls retracted the charges. (Note: Many human rights groups suspect the girls retracted the charges under pressure from Capt. Suwar, who remained posted at the company after the alleged incident and throughout the investigation. End note.) An RNA investigation acquitted Suwar of the rape charges, based on the girls' recantation, but found him guilty of unlawful arrest. He was held back one year from promotion and is currently posted at 7th Brigade Headquarters.

ALLEGATIONS OF EXTRAJUDICIAL KILLINGS

15. (C) On March 15, 2002, RNA soldiers of the Sri Nath Battalion of the 1st Brigade were accused of summarily executing Kancha Dongol, a detainee in military custody (Ref A), in Kathmandu. An RNA investigation found that Dongol had been shot while trying to escape (although, as Ref A notes, medical examiners found evidence that the victim had been shot at close range in the temple). Two soldiers were found guilty of the use of excessive force and sentenced to three months of imprisonment. The leader of the patrol that apprehended Dongol was discharged from the RNA.

16. (SBU) On November 28, 2002, RNA soldiers in Kaule, Nuwakot District (in the 6th Brigade's AOR), fired on a group of civilians at night who failed to heed an order to halt, killing five (Ref B). An RNA investigation found no evidence of wrongdoing as the soldiers followed standard operating procedures, but recommended that the families of each of the victims be paid NRs. 200,000 (approximately USD 2,700).

17. (C) On January 11, 2003, a soldier named Gyan Bahadur Thapa was accused of summarily executing a father and son in Manpur Tapara, Bardiya District, in the 4th Brigade's AOR. The soldier was court martialed and sentenced to seven years of imprisonment. An Armed Police Force (APF) officer, who was on patrol with the RNA soldier at the time, was also implicated in the incident. According to Rabi Raj Thapa, Assistant Inspector General of Police of the APF, the APF referred the case to the national police to file charges. The case has since languished, Thapa said, because the family members of the dead pair have not filed a First Investigation Report (FIR) or a complaint with the civilian police.

18. (C) On August 17, 2003, a joint patrol of soldiers assigned to the RNA's Narayan Dal Independent Company of the 9th Brigade and national police allegedly summarily executed 19 Maoist suspects in Doramba, Ramechhap District. An initial RNA investigation found that the 19 died, after having been taken into RNA custody, during a Maoist ambush. An independent panel subsequently convened by the National Human Rights Commission to investigate the incident has reported finding credible evidence that extrajudicial killings took place (Ref C). The RNA has pledged to reopen the case but so far has been unable to do so, according to Col. Narendra Aryal of the Human Rights Cell, because of the precarious security situation in that area. The RNA has established a company in the area to provide better security to villagers who may wish to volunteer testimony to aid the investigation, Aryal indicated, adding that once local residents gain greater confidence in their personal safety and familiarity with the RNA presence, the investigation will proceed.

19. (C) On October 13, 2003, RNA soldiers from the 5th Signal Company, the 5th Recruit Training Company, the 5th Field Ambulance Company, and the 5th Air Defense Company, along with members of the national police, opened fire at a secondary school where Maoists were holding a "cultural program," in Mudhbara, Doti District, in the 5th Brigade's AOR (Ref D). Four students were killed and five were injured. An RNA investigation acquitted the soldiers involved of wrongdoing, but recommended that the victims' families be paid NRs 200,000 (approximately USD 2,700) each.

10. (C) On November 6, 2003, an RNA private of the Ferret Company of the 10th Brigade opened fire on Rajiv Shrestha, the driver of a vehicle that had rear-ended an RNA bus in Balaju, Kathmandu, killing him. The private explained that he had fired out of fear that the collision was an attempted terrorist car bombing. He currently is being tried under the

Army Act, and the RNA has recommended compensation for the Shrestha family.

11. (C) On December 4, 2003, a soldier of the Indravox Company of the 7th Brigade opened fire at a checkpoint in Sunachari, Makwanpur District, at a bus conductor who was running towards him with his hand in his pocket. The soldier is currently facing a court martial, and the RNA has recommended compensation for the family of the victim.

12. (C) On December 6, 2003, RNA soldiers attached to the 18th Brigade in Diktel, Khotang District, were accused of summarily executing Maoist suspects Hari Prasad Bhattarai, Durga Koirala, and Dakmani Koirala (Ref E). Following an RNA investigation into the incident, the warrant officer in charge of the detachment that arrested the three victims is facing a court-martial. Col. Aryal of the Human Rights cell indicated that the Board of Inquiry may also recommend disciplinary action against the lieutenant in charge of the platoon.

NOT UNDER INVESTIGATION

13. (C) On December 14, 2003, teenager Maya Devi Tamang was shot and killed by RNA soldiers in Panauti, Kavre District, in the 9th Brigade's AOR. According to RNA Spokesman Col. Deepak Gurung and Col. Narendra Aryal of the Human Rights cell, an RNA inquiry determined that the girl had been shot while trying to escape. This account is disputed by initial reports collected by the National Human Rights Commission (NHRC) and INSEC, a local human rights NGO. According to Kedar Prasad Poudel, Secretary of the NHRC, Tamang's husband had reportedly been a Maoist, but he had disappeared from his home more than a year before and Tamang, who was not known to maintain contact with him, had gone back to live at her parents' house. On December 14, a large number of soldiers had come to Tamang's village, asking for her by name, and arresting her from her father's house. Shortly thereafter, she was shot and killed under unclear circumstances. (Note: Local press accounts quoted villagers who reported that she had been beaten and shot and her body dumped near her father's house. Poudel said he could not confirm if there were actual eyewitnesses to the killing, but that her dead body had certainly been found in the vicinity of the house after her arrest. End note.) Given the number of armed soldiers sent to apprehend the teenager, Poudel questioned the RNA account. Even if, as the RNA inquiry found, she had attempted to escape, could not some other means have been employed to restrain her, he asked. He added that Tamang's father had told representatives of human rights organizations that after the killing RNA soldiers had offered him Rs. 500 (approximately USD 7). The NHRC has sent a field team to the site to conduct its own investigation, Poudel said, the results of which may be available by the end of January/beginning of February.

COMMENT

14. (C) Since its inception in mid-2002, the RNA human rights cell appears to be making limited progress in investigating and recommending for prosecution allegations of human rights violations. Clearly, the cell as a unit and the RNA as an institution would benefit from more sustained contact, to include technical assistance, with counterparts in the U.S. military. While the RNA has provided us extensive information on the cases it has investigated, similarly detailed data has not been offered to the general public or to the human rights groups that first raised many of these cases. Moreover, despite efforts made on other, less notorious cases, the RNA remains subject to public criticism for failing thus far to take decisive steps to reopen the Ramechhap investigation. Until it does so, the RNA will remain vulnerable to public perception that it is attempting to avoid a full accounting. The Embassy will continue to press the RNA to reopen the investigation as soon as feasible.

MALINOWSKI